

**Before the  
Federal Communications Commission  
Washington D.C. 20554**

In the matter of

WC Docket No. 02-60

Rural Health Care Support Mechanism

Consortium #44647 American Telemedicine  
Connect Consortium, Inc.

Request of American Telemedicine Connect  
Consortium, Inc. for Waiver of the technical,  
but not substantial, rules set forth in Section VI,  
F, paragraph 313 of the Commission's HCF  
program rules in FCC document 12-150.

**REQUEST FOR WAIVER**

Pursuant to Section 1.3 of the Commission's rules, 47 C.F.R. 1.3, the Project Coordinator ("Coordinator") for American Telemedicine Connect Consortium Inc. ("ATMCC," Consortium #44647) hereby requests a waiver of specific Site and Service Substitution procedures for the Healthcare Connect Fund (HCF) in form but not in substance. Otherwise an HCP will not receive the HCF funding it needs and deserves under the FCC's intent for the Rural Healthcare Program.

**Background**

HCP 10907, Crook County Medical Services District (CCMSD) is a Critical Access Hospital in Sundance, Wyoming. Located in Crook County, Sundance is outside of a Core Based Statistical Area<sup>1</sup> and is medically underserved in primary, dental and mental healthcare.<sup>2</sup> FRN 18452871 (FRN) funded the hospital's existing copper based connection from July 1, 2018 to June 30, 2019, and its planned upgrade to 1 gig fiber. However, the service provider Range Telecommunications (Range) delayed completing the upgrade month after month. Range finally completed the upgrade on July 29, 2019, which left \$2,895.75 of the FRN unused. The

---

<sup>1</sup> Office of Management and Budget

<sup>2</sup> Health Resources and Services Administration website

Coordinator submitted a service substitution request (Request) to use these funds for eligible equipment purchased to implement the upgrade. As shown in the document “CCMSD1 S&S Denial,” USAC denied the Request because

1. “There is a different service provider for the requested equipment than on the original Form 462 submission. Please note, per FCC Order 12-150 the service provider must be the same as HCPs cannot reallocate funding across service providers or across FRNs;” and,
2. “All requested services and equipment must be purchased within the FRNs funding dates.”<sup>3</sup>

### **Discussion**

The FCC order says that a site or service substitution may be approved if “(i) the substitution is provided for in the contract, within the change clause, or constitutes a minor modification, (ii) the site is an eligible HCP and the service is an eligible service under the (HCF) Program, (iii) the substitution does not violate any contract provision or state or local procurement laws, and (iv) the requested change is within the scope of the controlling FCC Form 465(461), including any applicable Request for Proposal.”<sup>4</sup> The four criteria (i-iv) of the rule doesn’t say “the service provider must be the same as HCPs cannot reallocate funding across service providers or across FRNs.” This provision was not clear to the Coordinator because of the rule’s wording, and as shown in the document “CCMSD2 Invoicing Changing SPIN IDs.” USAC previously, on an earlier site and substitution request, without any note of caution,

---

<sup>3</sup> Document “CCMSD1 S&S Denial” included with waiver request

<sup>4</sup> FCC 12-150 Section VI, F, paragraph 315

changed the SPIN ID on ATMCC's FRN 17269041 from one company to another. As shown in "CCMSD3 FRN 18452871 Invoicing Question," USAC also simply stated "You can file a site and service substitution to transfer the funds." when the Coordinator asked "Can they (the FRN's funds) be redirected to be used for fiber installation charges?" From this information, the Coordinator did not understand the installation equipment needed to be purchased from the same service provider as that of the original FRN, especially as service providers don't necessarily have all of the equipment needed to implement upgrades. For example, HCP 24127, a member of ATMCC's consortium, purchased new equipment for its upgrade from a supplier different from the service provider to implement its upgrade in FRN 18428721.

The Coordinator also recommended that the IT Director date the purchase order July 1, 2019, even though the transaction was substantially complete in FY 2018. The reason was that originally the purchase order would have been dated May 31, but the service provider did not have a SPIN ID. USAC took until June 25 to grant the service provider the SPIN ID, as shown in the email trail with CCMSD's IT Director "CCMSD4 Spin ID Discussion." CCMSD's decision to purchase the equipment from the supplier was made in May 2019.

The solicitation, bidding and award for the equipment was such that the Coordinator could have applied for HCF FY 2019 subsidy funding of the expenditure. Instead, the Coordinator only applied in FY 2019 for coverage of CCMSD's broadband service thinking the FRN's funds were going to be deployed for the equipment. As the FY 2019 funding window closed on May 31, the Coordinator cannot apply now for its subsidy funding.

Overall, CCMSD will not receive an HCF subsidy on its eligible expenditure. CCMSD has lost not only the time and effort it spent on obtaining the original award, but also following the correct procedure for a new one. CIR-1908-03 emphasizes time is particularly of the essence for high priority HCF recipients. High priority healthcare providers particularly benefit from “specific and predictable support.”<sup>5</sup> Although the FCC has designed site and service substitutions “to provide some amount of flexibility to project participants” and “minimize the burden on consortium participants and increase administrative efficiency,” the provision is not being used for this purpose.<sup>6</sup>

### **Conclusion**

In this case, the Commission should take into account CCMSD’s work and the substance of ATMCC’s submissions in order to meet HCF’s objective of serving the public interest by subsidizing CCMSD’s use of the best broadband and internet service it can afford and implement after undergoing cost effective competitive bidding.

This appeal for CCMSD to be able to deploy the HCF funding it received is due to the productivity and efficiency destroying, and overly restrictive, USAC administrative regulations that are disconnected from the mission given to USAC by the FCC to further the adoption of high speed internet access by high need, highly rural, health care providers.

In particular, USAC’s regulations ignore and do not deal with inevitable delays by vendors in meeting schedules that they have committed to and are the basis for this HCP and Coordinator’s filings.

---

<sup>5</sup> FCC CIR1908-03 Paragraphs 98 and 99.

<sup>6</sup> FCC 12-150 Section VI, paragraph 314 and 315

Specifically, the vendor Range was late in delivering the fiber optic service and USAC confused its own application of the regulations by approving a logical substitution for the Coordinator for different companies in the past. Furthermore, USAC was not responsive in supplying a SPIN ID for a replacement vendor which then delayed the Coordinator from being able to make a timely submission.

In all cases, the Coordinator was attempting to deal with the realities of a supply chain and a busy IT director for which USAC administrative regulations do not provide for efficient reimbursement of legally authorized FCC subsidies.

This appeal requests equitable relief from the impractical USAC, well-intentioned, overly-restrictive, administrative regulations.

Respectfully Submitted,

Claire Hurley  
President and Project Coordinator  
American Telemedicine Connect Consortium, Inc.  
2 Pheasant Lane  
Westport, CT 06880  
[chh.atmcc@icloud.com](mailto:chh.atmcc@icloud.com)  
617-584-6663